

**REMARKS**

In this Amendment, claims 25-36 are amended. Therefore, after entry of this Amendment, claims 25-36 are all the claims pending in the application.

The claims have been amended to more clearly recite that which Applicants regard as their invention.

Claims 25 and 28 have been amended to recite “a test piece” as a separate element.

Claims 25, 27 and 28 have been amended to replace the term “means” with the term “unit”, as Applicants does not intend to invoke Section 112, paragraph 6.

Other formal and/or stylistic amendments have been made to all of the pending claims. These amendments are not intended to change the scope of the claims nor surrender any subject matter for which Applicants have a right to claim.

Applicants submit that the amendments do not introduce new matter.

Entry of the Amendment is respectfully requested.

**I. Objections to the Claims**

(A) At page 2 of the Office Action, the Examiner objects to claim 26 because the Examiner believes that the term "specific binding substance" should be pluralized as in independent claim 25.

Applicants have corrected this typographical error.

(B) At page 2 of the Office Action, the Examiner objects to claims 27 and 28. Specifically, the Examiner states that claims 27 and 28 lack antecedent basis for the word "measurement."

Applicants have cancelled the phrase “said measurement” from claims 27 and 28.

Accordingly, Applicants request that the objections to the claims be withdrawn.

## **II. Rejections Under 35 U.S.C. § 112, Second Paragraph**

At page 3 of the Office Action, the Examiner rejects claims 27 and 28 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner states that there is insufficient antecedent basis for the phrase “used in the method.”

Applicants have cancelled the phrase “used in the method,” rendering this rejection moot.

Accordingly, Applicants respectfully request withdrawal of this rejection.

## **III. Rejections Under 35 U.S.C. § 102(e)**

At page 3 of the Office Action, claims 25-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Chee (US Patent No. 5,974,164).

Specifically, the Examiner contends that in the absence of structural limitations, the claims only require a first detection means, second detection means, and an analyzing means wherein these means can perform the recited functions. Further, the Examiner contends that the apparatus of Chee has: (1) a first detection means, (2) a second detection means, and (3) an analyzing means that can perform the recited functions. Thus, the Examiner concludes that Chee anticipates the present claims.

In the March 22, 2004 Response, Applicants submitted that: (1) Chee does not disclose any labeled member disposed on a test piece, (2) Chee does not show two labeled binding substances that hybridize to each other, and (3) Chee does not teach an analyzing means that

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corrects the value of one signal based on the detected level of another. The Examiner states that, in his opinion, the claims recite functional and not structural limitations.

Applicants submit that the amended claims clearly recite structural limitations. For example, the amended claims recite the "test piece" as a separate element.

Since Chee does not teach an apparatus with a test piece having labeled members disposed at each position, Chee does not anticipate the present claims.

#### **IV. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

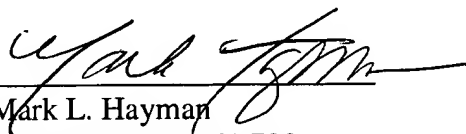
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WASHINGTON OFFICE

**23373**

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